

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

Int'l Union Of Painters And Allied Trades	:	
District Council 711 Health & Welfare And	:	
Vacation Funds, Finishing Trades	:	
Institute And Harry J. Harrchetts	:	Hon. Joseph H. Rodriguez
Plaintiffs,	:	Civil Action No. 13-3505
V.	:	
Mazzco Enterprises, Inc.,	:	Memorandum Order
Defendants.	:	

This matter having come before the Court on Plaintiffs' Motion for Entry of Default Judgment [Dkt. Entry No. 10] pursuant to FED. R. CIV. P. 55; and the Court having reviewed the submissions of Plaintiffs and noting that no answer has been filed; and

It appearing that the motion is deficient in that it fails to append an affidavit of non-military service in compliance with the Soldiers and Sailors' Relief Act. Ciasulli v. Hartmann, No. 08-5544, 2009 WL 150668, at \*1 (D.N.J. Jan. 21, 2009) (citing GE Healthcare Fin. Servs. v. New Brunswick X-Ray Group, PA, No 05-833, 2007 WL 38851, at \*3 (D.N.J. Jan. 4, 2007)); and

It further appearing that Plaintiff incorrectly calculated the judgment amount in that the calculation for the delinquency period of May 1, 2010 through July 31, 2010 set forth in Exhibit E incorrectly utilizes a calculation period of 47 months and 15 days. The calculation period in Exhibit E is listed as October 16, 2010 through September 2, 2014, which then appears to be incorrectly characterized as 46 months and 18 days

rather than 46 months and 17 days; and

It further appearing that Plaintiffs seek attorneys' fees and costs associated with the present action and an abandoned action, Civil Action No. 11-3541, dismissed by this Court on March 5, 2012 for failure to prosecute pursuant to L. Civ. R. 41.1(a); and

It further appearing that the abandoned action requested identical relief to the present matter and that this matter may be barred by res judicata, see Mendy v. Chase Home Finance, LLC, 10-CV-4026, 2011 WL 3471522 (D.N.J. Aug. 8, 2011); and

It further appearing that Plaintiffs may not be entitled to attorneys' fees and costs that are duplicative of those incurred in the abandoned action, such as fees incurred in the drafting of the complaint, nor such fees and costs incurred as a result of counsel's mismanagement or neglect; as a result,

IT IS on this 25th day of February, 2015 hereby

ORDERED that Plaintiffs' Motion for Default Judgment [10] is DENIED; and it is further

ORDERED that Plaintiff shall re-file the Motion consistent with this Order within 10 days of the date of this Order; and it is further

ORDERED that any such submission shall include a breakdown of the hours worked by each attorney and paralegal, as well as a summary of the types of services performed, but shall exclude those fees and costs that are duplicative of the abandoned action and/or were incurred as a result of attorney mismanagement or neglect; and it is further

ORDERED that Plaintiffs shall submit authority addressing why this matter is

not barred by res judicata.

s/ Joseph H. Rodriguez

Hon. Joseph H. Rodriguez,  
United States District Judge